

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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USCA Docket Number:

USDC Docket Number : 04-cv-12122

Fredrick Bush

v.

Joseph McDonald

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**CLERK'S CERTIFICATE**

I, Sarah A. Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 8/9/05.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on August 18, 2005.

Sarah A. Thornton, Clerk of Court

By:

Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 8/18/05.

D. Borchard  
Deputy Clerk, US Court of Appeals

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Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: \_\_\_\_\_

## APPEAL, CASREF

**United States District Court  
District of Massachusetts (Boston)**

Bush v. McDonough  
Assigned to: Judge Joseph L. Tauro  
Cause: 28:2254 Petition for Writ of Habeas  
Corpus (State)

Date Filed: 10/05/2004  
Jury Demand: None  
Nature of Suit: 530 Habeas  
Corpus (General)  
Jurisdiction: Federal Question

**Petitioner**

**Fredrick J. Bush**

represented by **Fredrick J. Bush**

20903

Plymouth County Correctional  
Facility  
26 Long Pond Road  
Plymouth, MA 02360  
PRO SE

V<sub>1</sub>

## **Respondent**

## Department of Corrections

*Plymouth County Sheriff's*

### *Department*

TERMINATED: 10/12/2004

## Respondent

## Joseph McDonough

TERMINATED: 05/04/2005

represented by **Randall E. Ravitz**

ATTORNEY GENERAL'S OFFICE

Attorney General's Office  
One Ashburton Place

The Ashburn  
18th Floor

10th Floor  
Boston, MA 02108

BOSTON, MA 02108  
617 727 2200 ext 2852

Fax: 617-727-5755

Email:

randall.ravitz@ago.state.ma.us

*LEAD ATTORNEY  
ATTORNEY TO BE  
NOTICED*

**Respondent**

**Joseph D. McDonald**  
*Sheriff of Plymouth County*

represented by **Randall E. Ravitz**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE  
NOTICED*

Date Filed	#	Docket Text
10/05/2004	•1	MOTION for Leave to Proceed in forma pauperis by Fredrick J. Bush.(Jenness, Susan) (Entered: 10/06/2004)
10/05/2004	•2	PETITION for writ of habeas corpus pursuant to 28:2254, filed by Fredrick J. Bush.(Jenness, Susan) (Entered: 10/06/2004)
10/05/2004	•	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Bowler. (Jenness, Susan) (Entered: 10/06/2004)
10/06/2004	•	Case undergoing preliminary screening (Jenness, Susan) (Entered: 10/06/2004)
10/06/2004	•	Filing fee: \$ 5, receipt number 59108, for Section 2254 habeas petition. (Weissman, Linn) (Entered: 10/07/2004)
10/12/2004	•3	Judge Joseph L. Tauro : ORDER entered denying as moot <u>1</u> Motion for Leave to Proceed in forma pauperis

		because petitioner has paid the \$5.00 filing fee. (Morse, Barbara) (Entered: 10/14/2004)
10/12/2004	•4	Judge Joseph L. Tauro : ORDER entered SERVICE ORDER re 2254 Petition. Ordered entered that the Clerk shall correct the case caption to reflect that the only respondent to this action is Joseph McDonough, the sheriff of Plymouth County. Order entered pursuant to R.4 of the Rules governing Section 2254 cases for service on respondent. Answer/responsive pleading due w/in 20 days of rcpt of this order.(Morse, Barbara) (Entered: 10/14/2004)
10/14/2004	•	Remark: Clerk corrected case caption to reflect that the only respondent to this action is Joseph McDonough, the sheriff of Plymouth County. Copies of petition served certified mail to Sheriff McDonough and Office of the Attorney General for the Commonwealth. (Morse, Barbara) (Entered: 10/14/2004)
10/21/2004	•	Return receipt received for mail sent to Cathryn Neaves, Esq. Delivered on October 15, 2004 (Abaid, Kim) (Entered: 10/25/2004)
10/21/2004	•	Return receipt received for mail sent to Sheriff Joseph F. McDonough Delivered on October 15, 2004 (Abaid, Kim) (Entered: 10/25/2004)
11/04/2004	•5	NOTICE of Appearance by Randall E. Ravitz on behalf of Joseph McDonough (Abaid, Kim) (Entered: 11/08/2004)
11/04/2004	•6	MOTION to Dismiss by Joseph McDonough.(Abaid, Kim) (Entered: 11/08/2004)
11/04/2004	•7	MEMORANDUM in Support re 6 MOTION to Dismiss filed by Joseph McDonough. (Abaid, Kim) (Entered: 11/08/2004)
11/08/2004	•8	Judge Joseph L. Tauro : ORDER entered

		REFERRING CASE to Magistrate Judge Marianne B. Bowler Referred for: Report and Recommendations (Abaid, Kim) (Entered: 11/08/2004)
11/15/2004	• 9	Opposition re <u>6</u> MOTION to Dismiss. filed by Fredrick J. Bush. (Abaid, Kim) (Entered: 11/16/2004)
12/15/2004	• 10	Letter and Exhibits from Frederick Bush. (Abaid, Kim) (Entered: 12/16/2004)
04/14/2005	• 11	MOTION for reassignment of respondent title from former Plymouth County sheriff "Joseph McDonough" to the new, current Plymouth County Sheriff "Joseph T. Macdonald" by Fredrick J. Bush.(Abaid, Kim) (Entered: 04/14/2005)
04/14/2005	• 12	MOTION for current and updated docket summary up to present. by Fredrick J. Bush.(Abaid, Kim) (Entered: 04/14/2005)
04/20/2005	•	Judge Joseph L. Tauro : Electronic ORDER entered granting <u>12</u> Motion for current and updated docket summary (Abaid, Kim) (Entered: 04/20/2005)
05/04/2005	•	Judge Joseph L. Tauro : Electronic ORDER entered granting <u>11</u> Motion for Reassignment of Respondent Title (Abaid, Kim) (Entered: 05/04/2005)
06/10/2005	• 13	MOTION to Appoint Counsel by Fredrick J. Bush. (Abaid, Kim) (Entered: 06/14/2005)
06/17/2005	• 14	Judge Marianne B. Bowler: ORDER entered. MEMORANDUM AND ORDER Re: Motion to Compel Appointment of Counsel, Evidentiary Hearing, #13 is DENIED. REPORT AND RECOMMENDATION RE: Respondent's Motion to Dismiss, #6 is ALLOWED and the petition is DISMISSED without prejudice due to failure to exhaust available state court remedies.(Feeney, Eileen) (Entered: 06/17/2005)
06/17/2005	•	Magistrate Judge Marianne B. Bowler no longer

		assigned to the case. (Saccoccio, Dianalynn) (Entered: 07/05/2005)
06/23/2005	• 15 c	MOTION for Reconsideration re 14 Memorandum & ORDER Re: Motion to Compel Appointment of Counsel, Evidentiary Hearing, #13 is DENIED. REPORT AND RECOMMENDATION RE: Respondent's Motion to Dismiss, #6 is ALLOWED and the petition is DISMISSED without prejudice due to failure to exhaust available state court remedies by Joseph D. McDonald.(Abaid, Kim) (Entered: 06/23/2005)
07/05/2005	• 16 c	Objection by Fredrick J. Bush to 14 Memorandum & ORDER,. (Patch, Christine) (Entered: 07/07/2005)
07/20/2005	•	Judge Joseph L. Tauro : Electronic ORDER entered. ORDER ADOPTING REPORT AND RECOMMENDATIONS for 15 Motion for Reconsideration, filed by Joseph D. McDonald, Action on motion: Granted Motion to Dismiss. (Abaid, Kim) Modified on 7/26/2005 (Abaid, Kim). (Entered: 07/26/2005)
07/26/2005	• 17 c	Judge Joseph L. Tauro : ORDER entered. JUDGMENT in favor of Respondent against Petitioner(Abaid, Kim) (Entered: 07/26/2005)
08/09/2005	• 18	NOTICE OF APPEAL as to 17 Judgment by Fredrick J. Bush. NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at <a href="http://www.ca1.uscourts.gov/clerks/transcript.htm">http://www.ca1.uscourts.gov/clerks/transcript.htm</a> MUST be completed and submitted to the Court of Appeals. Appeal Record due by 8/29/2005. (Abaid, Kim) (Entered: 08/16/2005)